

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
BEAUFORT DIVISION**

MARIAN DURHAM, # 14803,		CIVIL ACTION NO: 6:07-3855-MJP
Petitioner,		
-vs-		
WARDEN MARY MITCHELL,		<u>ORDER</u>
Respondent.		

In the underlying action, the petitioner, Marian Durham, a federal prisoner proceeding *pro se* has filed a petition pursuant to 28 U.S.C. § 2241 seeking a writ of habeas. The petitioner is confined at the Federal Correctional Institute in Coleman, Florida where she is serving a sentence of a ‘year and a day’ for her conviction for wire fraud. This matter is now before this Court pursuant to the report and recommendation submitted by United States Magistrate Judge William M. Catoe, to whom it was referred for review under Local Rule 73.02. The Magistrate Judge has recommended that this matter be transferred to the United States District Court for the Middle District of Florida. The petitioner has not objected to the Magistrate Judge’s recommendation.

The applicable standard of review for this Court is clear. The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the Court. Matthews v. Weber, 423 U.S. 261 (1976). The Court is charged with making a *de novo* determination of those portions of the Report and Recommendation to which specific objection is made 28 U.S.C. §636 (b)(1)(C) . However, the court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the Magistrate Judge as to those portions of the Recommendation to which not objections are addressed. Thomas v. Arn, 474 U.S. 140, 150 (1985). While the level of scrutiny entailed by the Court's review of the Report thus depends on whether or not objections have been filed, the Court is free, after review, to accept, reject or modify, in whole or in part, the recommendation of the Magistrate Judge, or recommit the matter to him with instructions. Wood v. Schweiker, 537 F. Supp. 660, 661 (D.S.C. 1982).

A §2241 petition must be filed in the judicial district which can acquire *in personam* jurisdiction of a petitioner's warden or other custodian. See Rumsfeld v. Padilla, 542 U.S. 426, 434-35 (2204). Accordingly, upon careful consideration, the Report and Recommendation of the Magistrate Judge is approved. This matter is hereby transferred to the Middle District of Florida.

IT IS SO ORDERED.

s/MATTHEW J. PERRY, JR.
SENIOR UNITED STATES DISTRICT JUDGE

Columbia, South Carolina
January 28, 2008